

2012 NMSN Employer Webinar

Employer Questions and Answers

1. Can Part A or Part B be given to the employee? It sometimes has the custodial parent's information on it, so I am not sure.

A copy of the NMSN and the Request for Hearing document **MUST** be given to the employee within ten days of receipt.

The employer completes Part A indicating whether the employee is eligible for dependent health care coverage. If the employer determines the employee is eligible, the employer retains Part A and forwards Part B to the Plan Administrator.

The Plan Administrator completes Part B. Once the dependent(s) enrollment is complete, the Plan Administrator notifies the San Diego Department of Child Support Services and the employer, so health care coverage premium deductions, if required, can begin. The Plan Administrator is the person or entity responsible for enrolling participants in a health care coverage plan.

The documents you give to your employee will not contain the custodial parent's confidential information. If you believe the documents you have contain the custodial parent's confidential information, immediately contact our office at (866) 901-3212.

2. What if the employee is not eligible for health coverage? We only offer medical coverage to full time employees. What if the order comes in for a part time employee?

If the employee is among the class of employees (for example, part-time employees) who are not eligible for family health coverage under any group health plan maintained by your company, you are not obligated to provide it.

Within 20 business days of the date of the NMSN, you must circle number 2 of the NMSN Employer Response (Part A) and return it by mail to the San Diego Department of Child Support Services. You should also indicate that the employee works part-time on the form.

3. What if they are a 1099 independent contractor, does the order apply?

If the employee is among the class of employees (for example, 1099 independent contractors) who are not eligible for family health coverage under any group health plan maintained by your company you are not obligated to provide it.

Within 20 business days of the date of the NMSN, the employer should circle number 2 of the NMSN Employer Response (Part A) and return it by mail to the San Diego Department of Child Support Services. You should also indicate on the form that the employee is an independent contractor.

NOTE: 1099 independent contractors are **not exempt** from Income Withholding Orders (IWO) you are required to deduct income to pay support.

- 4. On question 1 where it states "Employer does not maintain or contribute to plans providing dependent or family health care coverage", does that mean that we don't help pay for dependent coverage, only pay partial for our employees? We only pay for 70% of our employee's health plans; they pay 30% plus the full amount for dependents.**

In most cases, there will be some cost to the employee for enrolling the children in health insurance pursuant to the NMSN. However, if health insurance coverage is available, but the deduction of premiums and the child support exceed 50% of the employee's net disposable earnings, complete NMSN Employer Response (Part A), circle number 4 and return it to our office within 20 business days. Please specify the cost for health insurance benefits. If the cost of insurance, paid by the employee, is less than 50% of the employee's net disposable earnings you are required to enroll the child(ren).

- 5. What should be done when the employee is not yet eligible to sign up for insurance when the NMSN is received? For example, the employee has only been working for 30 days and won't be eligible for insurance until employed for 90 days.**

A copy of the NMSN and the Request for Hearing document MUST be given to the employee within ten days of receipt.

If the employee is among the class of employees (for example, 90 day probationary employees) who are not eligible for family health coverage under any group health plan maintained by your company you are not obligated to provide it. However, once the employee becomes eligible (within 90 days using your example) you must enroll the child(ren).

Within 20 business days of the date of the NMSN, you should circle number 2 of the NMSN Employer Response (Part A) and return it by mail to the San Diego Department of Child Support Services. It should be noted on the Employer Response Form that the new employee will be eligible and the child(ren) will be enrolled within 90 days. You must take immediate action to ensure the child(ren) are enrolled in a health care plan to obtain coverage at the end of the 90-day probationary period. The San Department of Child Support Services must be updated with the status of enrolment at the conclusion of the 90-day probationary period. If the employee no longer works for you, you should use the "Termination of Benefits / Employment Notice" to report termination of employment and/or benefits of an employee.

- 6. What if I've circled the wrong one for one of our previous employees? He no longer works for us.**

If the employee no longer works for you, you should use the "Termination of Benefits / Employment Notice" to report termination of employment and/or benefits of an employee. You must notify us that the employee no longer works for you, providing the termination date and the employee's last known home address. If known, you should also provide the new employer's name and address, as well as any other provider of a health benefit plan. California law states that withholding for health insurance is a continuing obligation. The NMSN and withholding order remain in effect and are binding until further order from the court or the child support agency. Therefore, you are required to keep a record of the Order/Notice to Withhold Income (IWO) and the NMSN and to enforce the notices if the employee returns to work. You can also contact our office at (866) 901-3212.

- 7. What if their hours worked changes from pay period to pay period so they may not make as much from one to the next?**

You are required to give a copy of the NMSN and the Request for Hearing forms within 10 days of receipt.

Once the employee becomes eligible (when the cost of insurance is less than 50% of the employee's net disposable earnings using your example) you must enroll the child(ren). The employee should be directed to contact our office to obtain a court order terminating the NMSN if he/she believes it is unaffordable because of the fluctuation in wages. We will provide you with updated instructions if a new court order is obtained.

8. If the other parent currently has the child enrolled in a state health insurance plan, does the employee that is ordered to pay child support need to add the child to his plan?

Yes - A "state health insurance plan" is not considered a substitute for private health care coverage. The employer must still comply with the NMSN.

9. Is the employee required to add the dependent to coverage if they have provided health coverage under a plan that is outside of their employment?

Yes – you have a legal obligation to comply with the NMSN and you must enroll the children if a workplace health insurance plan if it is available. The employee should be given the Request for Hearing forms with the NMSN and be instructed to contact our office. In some extremely rare cases the court may find that the employee has met his or her obligation by providing insurance through an "outside" source. However, a court order and updated instructions from our office are required to relieve you of your legal obligation to enroll the children. You should never simply rely on representations made by your employee. The NMSN and court orders govern. You must take immediate steps to comply with the NMSN to avoid liability on your part.

10. Is there a packet I can download on this information? Am very new to this process.

Yes - the following web sites have helpful information for employers related to the NMSN

<http://www.childsup.ca.gov>

<http://www.sandiegochildsupport.org>

11. If the employee can't afford health ins. coverage for their child, should they cancel their own coverage and sign up their child in place of them if able? They would incur the full cost with our company.

If this is possible, pursuant to the terms of the plan it is permissible. In that case, it would be up to your employee. However, many plans require enrollment of the employee as the primary beneficiary in order to enroll eligible dependents. If the employee is not enrolled and multiple plans are available to the children, then the plan administrator shall enroll the dependents (and if necessary, the employee) in the health benefit plan. Your responsibility as an employer is to enroll the dependents according the net disposable income calculation reviewed in the presentation.

12. Our employees may make a different hourly rate when working on private construction job or prevailing wage public projects. Their net disposable income may not qualify when they work on private projects but would qualify when on public works projects. These rates could vary on a daily basis.

Once the employee becomes eligible (once the cost of insurance is less than 50% of the employee's net disposable earnings working on a public works project using your example) you must enroll the child(ren). The employee should be directed to contact our office to obtain a court order terminating the NMSN if he/she believes it is unaffordable based on frequent income changes. We will provide you with updated instructions if a new court order is obtained.

13. If you receive an order for an employee that no longer works for you, do you still need to send the employee the employee copy of the order?

No – If the employee no longer works for you, you should use the "Termination of Benefits / Employment Notice" to report termination of employment and/or benefits of an employee.

Please provide the termination date and the employee's last known home address. If known, you should also provide the new employer's name and address, as well as any other provider of a health benefit plan. California law states that withholding for child support and health insurance is a continuing obligation. The notice and withholding order remain in effect and are binding upon the employer until further notice from the court or the issuing local child support agency. Therefore, the employer is required to keep a record of the Order/Notice to Withhold Income and the National Medical Support Notice and to enforce the notices if the employee returns to work. You are also required to report the employee as a new hire if the employee returns to work.

14. If the employee is currently enrolled in SIMNSA is this acceptable coverage for the order or do they need to enroll in another offered plan? Simnsa is the least expensive plan.

If the employee is enrolled in an employer provided health benefit plan that offers dependent coverage, that plan should be selected. If SIMNSA is a plan provided by you, as the employer, in most cases it will be sufficient. However, in certain cases the custodial parent, the court and our office can require the use of specific employer provided coverage. Please contact our office at (866) 901-3212 if you have concerns about a particular type of coverage.

15. If the employee is reinstated, and they had previous NMSN (court order also), do we wait for an updated one?

No – California law states that withholding is a continuing obligation. The notice and withholding order remain in effect and are binding upon the employer until further notice from the court or the issuing local child support agency. Therefore, the employer is required to keep a record of the Order/Notice to Withhold Income and the National Medical Support Notice and to enforce the notices if the employee returns to work. You are also required to report the employee as a new hire.

16. Can the employee choose to have their children covered in our plan in Mexico?

If the employee is enrolled in an employer provided health benefit plan that offers dependent coverage, that plan should be selected. However, in certain cases the custodial parent, the court and our office can require the use of specific employer provided coverage. This question cannot be answered without knowing the details of the plan and where the children are located. Please contact our office at (866) 901-3212 so we can assist you with making this determination.

17. Can you give a scenario in which you would choose option 1 on page 2 of Part A?

If you, as an employer, do not maintain or contribute to plans providing dependent or family health care coverage. For example, your business uses only 1099 independent contractors, part-time employees or temporary employees and you do not offer health insurance plans to them. However, it's important to note you would still be required to deduct payments for support pursuant to an Income Withholding Order for these employees.

18. What if the employer offers outside the area Health coverage, but employee only wants to elect the cheaper plan which does not cover the out of state coverage? Can the employee make this decision?

No – if more than one plan is offered then the plan must be selected with in-state dependent coverage. If necessary the plan administrator shall enroll the dependents (and if necessary, the employee) in the health benefit plan that provides coverage for the child(ren). In certain cases the custodial parent, the court and our office can require the use of specific employer provided coverage. Please contact our office at (866) 901-3212 if you have concerns about a particular type of coverage.

If the dependent lives out of state or outside of the insurance coverage area, contact the Department of Child Support Services. Depending on the insurance provider, there may be a "guest membership enrollment" available and insurance coverage may extend to another state. Please contact our office at (866) 901-3212 so we can assist you with making this determination.

19. How do you handle multiple support orders when the employer cannot withhold the maximum for each order because the employee has had reduced wages based on reduced hours worked?

A NMSN issued by our office will provide detailed instructions on how to prioritize between cash and medical support. Unless notified, cash support will always have priority over health care coverage premiums. If the employee doesn't earn enough to cover the cash child support amount and health care coverage premium, the employer should complete NMSN Employer Response (Part A), circle number 4 and return it to our office. However, if the health insurance benefits are already being provided, the employee should be directed to contact our office to obtain a court order terminating the NMSN if he/she believes it is unaffordable based on income changes. We will provide you with updated instructions if a new court order is obtained.

You can also contact our office at (866) 901-3212 for assistance on how to calculate the cash support withholding and health care coverage premiums.

20. If an employee works by commission and never receives the same wages, what happens when the employee does not make enough to cover the premium, does the employer pay for the employee contribution?

If the employee doesn't earn enough to cover the cash child support amount and health care coverage premium, the employer should complete NMSN Employer Response (Part A), circle number 4 and return it to our office. However, if the health insurance benefits are already being provided, the employee should be directed to contact our office to obtain a court order terminating the NMSN if he/she believes it is unaffordable based on income changes. We will provide you with updated instructions if a new court order is obtained.

You can also contact our office at (866) 901-3212 for assistance on how to calculate the cash support withholding and health care coverage premiums.

21. Is it mandatory to wire child support payments to Sacramento office? We send checks.

Under state and federal law, employers are required to remit all California child support income withholding payments to the California State Disbursement Unit (SDU). Child support payments, made payable to "CA State Disbursement Unit," should be mailed to:

*CA State Disbursement Unit (SDU)
PO Box 989067
West Sacramento, CA 95798-9067*

However, if you are required to pay your tax or employment obligations to the California Franchise Tax Board (FTB) or the Employment Development Department (EDD) using EFT, then California law also requires you to make your child support income withholding payments by EFT.

22. What do we do if we find that we have been deducting more than 50% of the NDI for an employee by mistake? Say we put through the IWO and the NMSN and didn't realize we should only have done the IWO.

If this represents a problem for your employee to continue health coverage for the dependents, please have him/her contact our office and we will review the situation. If the coverage for dependents is to be terminated, you will receive instructions from our office.

23. Who takes care of the dependent's health insurance when it is a union employee?

The employer should consider the union the plan administrator and forward Part B of the NMSN to the union, unless the employer checks numbers 1, 2, or 3 in Part A of the NMSN Employer Response.

24. What about a FSA. Would that be considered voluntary correct?

Yes—a Flexible Spending Account is considered voluntary and thus not included in the deductions for purposes of calculating net disposable income.”

25. Would the employee's personal health insurance premium count as an allowable deduction?

No – the employee's personal health insurance is not an allowable deduction for determining net income available for support. The allowable deductions are taxes and mandatory fees such as income taxes, Social Security/Medicare for FICA, unemployment insurance, union dues, and mandatory retirement deductions.

26. When the employee has an order for 8 children - has part time wages with a net of \$210.00 weekly am I still required to enroll all children?

This depends on the cost to the employee in providing health insurance. If the employer pays 100% of the cost of health insurance for the employee and dependents, you are required to enroll all eight children. If there is a cost to the employee to enroll the children, you must determine if the cost is less than 50% of the employee's net disposable income. If so, all eight children must be enrolled.

27. Can the child be enrolled in a lower cost plan than the employee? Can the employee and the child be enrolled in different health plans?

If the employee is enrolled in an employer provided health benefit plan that offers dependent coverage, that plan should be selected. Typically, dependent coverage is less expensive in a plan where the primary participant is enrolled. However, in certain cases the custodial parent, the court and our office can require the use of specific employer provided coverage. Please contact our office at (866) 901-3212 if you have concerns about a particular type of coverage.